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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 TSYS Acquiring Solutions, LLC, ) No. CV 09-0155-PHX-JAT  
10 Plaintiff, ) **ORDER**  
11 vs. )  
12 )  
13 Electronic Payment Systems, LLC, )  
14 Defendant. )  
15

16 Pending before the Court is Defendant Electronic Payment Systems, LLC's Motion  
17 for Prejudgment Interest (Doc. 65). For the reasons that follow, the Court denies Defendant's  
18 motion.

19 Defendant seeks to amend the May 4, 2010, judgment to include an award of pre-  
20 judgment interest. Citing to case law from the Seventh and Eleventh Circuits, Defendant  
21 argues that when an amended judgment works substantial clarifications and changes from  
22 the initial judgment, the amended judgment is essentially a new judgment for purposes of  
23 post-judgment motions under Federal Rules of Civil Procedure 59(e). Defendant fails to cite  
24 any relevant Ninth Circuit law supporting Defendant's urged principal of law. In any event,  
25 the May 4, 2010, judgment did not substantively alter the initial October 22, 2009, judgment  
26 such that the May 4 judgment can be considered a new judgment for Rule 59(e) purposes.

27 In the Court's May 4, 2010, Order that prompted the May 4 judgment, the Court  
28 agreed that some clarification of the October 22 judgment was necessary, but the Court

1 reiterated that it was simply affirming the arbitration award, and the May 4 Order did not  
2 work a substantive change of the October 22 judgment:

3           On November 5, 2009, Defendant moved pursuant to Rule 59(e) to have  
4 the judgment amended so as to provide clarity to the parties. Plaintiff did not  
5 substantively oppose the need to amend the judgment. The Court agrees that,  
6 for the purpose of providing clarity, the October 22, 2009, judgment should be  
7 amended. As such, the Court has included the proper language at the end of  
8 this Order.

9 (Doc. 59 at p. 5.) (footnotes omitted) Indeed, the Court further expounded upon this point  
10 in a footnote immediately following the above quoted paragraph:

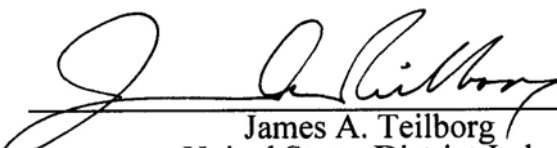
11           The Court expressly notes that the amended judgment works no  
12 substantive changes to the Court's October 22, 2009, Order. Rather, the  
13 judgment is amended only for the purpose of more clearly expressing the  
14 intentions of the Court in its October 22 Order; namely, to fully affirm the  
15 arbitrator's award, including the monetary award.

16 (*Id.*) The Court has already addressed this point, and it need not revisit this issue. Both the  
17 October 22 and May 4 judgments were intended to affirm the arbitration award in full. The  
18 mere fact that the May 4 judgment contains additional paragraphs, sentences, words, and  
19 numbers does not mean there was any substantive alteration from the October 22 judgment.

20           Accordingly,

21           **IT IS ORDERED** that Defendant Electronic Payment Systems, LLC's Motion for  
22 Prejudgment Interest (Doc. 65) is denied.

23           DATED this 2<sup>nd</sup> day of August, 2010.

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James A. Teilborg  
United States District Judge